

# **Exploring Community Responses to Statutory Rape**

## **Final Report**

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## I. INTRODUCTION

In 2003, the U.S. Department of Health and Human Services (DHHS) Office of the Assistant Secretary for Planning and Evaluation (ASPE) commissioned a study to determine how various DHHS programs identify and assist statutory rape victims within their caseloads. This report summarizes nine case studies by The Lewin Group that explore how states and communities are responding to this important issue.

### A. Purpose of the Study

Sexual relationships between adolescents and adults can have severe consequences for young teenagers. These partnerships often are characterized by unequal power and control, putting the adolescent at risk of unplanned and unprotected sex, unwanted pregnancy, and exposure to sexually transmitted diseases (STDs).<sup>1</sup> For example:

- Adolescents who are sexually active at a young age are more likely to have experienced coercive sex. Almost three-quarters of young women who had intercourse before age 14, and 60 percent who did so before age 15, reported having a forced sexual experience.<sup>2</sup>
- Females whose first sexual experience is with older partners are less likely to practice contraception, putting them at risk of pregnancy. Greater age difference is associated with reduced contraceptive use, especially among females.<sup>3</sup> Among all sexually experienced teenage females, two-thirds of those with a much older (six or more years) partner used a contraceptive at last intercourse compared with 78 percent of teenagers whose partners were two or fewer years older.<sup>4</sup>
- Half of children born to minors are fathered by adult men, and sexual partners of these adolescents are often three to six years older.<sup>5</sup>

These findings raised concerns among policymakers, health care providers, and advocates and prompted a study of alternatives for reducing unequal partnerships, or statutory rape. In 2003, ASPE funded The Lewin Group to conduct a study of state statutory rape laws and DHHS programs. The original study design focused on three DHHS programs – Child Protective Services (CPS), Title X family planning clinics, and community health centers. DHHS planned to use the findings to determine whether additional policy or practice guidance, technical assistance, or training was warranted.

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<sup>1</sup> Harner, H. (2003). *Sexual Violence and Adolescents*. Available online at [http://www.vawnet.org/SexualViolence/Research/VAWnetDocuments/AR\\_Adolescent.php](http://www.vawnet.org/SexualViolence/Research/VAWnetDocuments/AR_Adolescent.php).

<sup>2</sup> The Alan Guttmacher Institute (1994). *Sex and America's Teenagers*. New York.

<sup>3</sup> Manlove, J., Ryan, S., & Franzetta, K. (November/December 2003). Patterns of contraceptive use within teenagers' first sexual relationships. *Perspectives on Sexual and Reproductive Health*, 35(6), 246–255.

<sup>4</sup> Darroch, J., Landry, D., & Oslak, S. (July/August 1999). Age differences between sexual partners in the United States. *Family Planning Perspectives*, [31(4), 160–167].

<sup>5</sup> Donovan, P. (June 1998). Caught between teens and the law: Family planning programs and statutory rape reporting. *The Guttmacher Report on Public Policy*, 1(3), 5-7.

Exploratory site visits, however, suggested that addressing and preventing these unequal partnerships is difficult to accomplish by any single program or governmental agency. Instead, a range of service providers and governmental entities are involved, including health care providers, educators, law enforcement personnel, and advocates associated with sexual violence or rape crisis centers. The study design was adapted accordingly to explore how organizations within states and communities work together to approach the issue of statutory rape. This report summarizes the findings of nine case studies.

## B. Structure of the Report

This report is divided into the following sections:

- The *Background* section provides context for the study and resulting field work.
- The *Methodology* section describes the project tasks and summarizes the characteristics of the case study sites.
- The *Field Research Findings* section summarizes the major findings along three dimensions: legislative changes, law enforcement, and education, prevention initiatives, or both.
- The *Discussion* section assesses the overall findings and proposes a framework for future action on this important issue.
- The *Appendix* includes the nine site visit summaries.

## II. BACKGROUND

In 2005, a 22-year-old Nebraskan made national headlines when he and the 14-year-old mother of his child married in Kansas. Unable to marry in Nebraska, where state law prohibits marriages of people under 17, the couple crossed into Kansas, where the union was legal. On returning to Nebraska, he was charged with statutory rape. According to the Nebraska attorney general,

We don't want grown men having sex with young girls. We make a lot of choices for our children: we don't allow them to drink; we don't allow them to drive cars; we don't allow them to serve in wars at age 13, whether they want to or not; and we don't allow them to have sex with grown men.<sup>6</sup>

This recent media story was one of many focusing on unequal partnerships. This was not a new development, however; public officials, advocates, and others have focused on the issue of statutory rape for many years.

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<sup>6</sup> Wilgoren, Jodie (2005, August 31). In Nebraska, rape charge follows legal marriage, in Kansas, to 14-year-old. *The New York Times*, p. A 10.

## A. Statutory Rape Laws

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 explicitly referenced the role that adults play in births to teenagers. PRWORA requires state Temporary Assistance for Needy Families (TANF) plans to

conduct a program, designed to reach State and local law enforcement officials, the education system, and relevant counseling services, that provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded in scope to include men.<sup>7</sup>

In 1998, Congress amended the Public Health Service Act to require health care providers receiving Title X family planning funds to comply with state statutory rape reporting requirements. Known as the “Istook Amendment,” the law states:

Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or reporting of child abuse, child molestation, sexual abuse, rape, or incest.

As these laws indicate, statutory rape is adjudicated at the state level. Every state and the District of Columbia have two sets of laws that address statutory rape: criminal laws and reporting laws. Each is described below.

### 1. Criminal Laws

Criminal laws, included in the penal code, define the offense. Criminal laws for statutory rape assume that all sexual activities involving individuals below a certain age are coercive. This assumption is true even if both parties believe their participation is voluntary. Generally, these laws concerning statutory rape define the age below which an individual is legally incapable of consenting to sexual activity. To complicate matters, few states use the term “statutory rape” in their criminal codes. More often, a state’s code addresses legality of different sexual activities involving minors (e.g., sexual contact versus penetration). Sometimes identifying the applicable laws is difficult because they often are embedded in the section of the code dealing with other sexual offenses (e.g., sexual assault, forcible rape).

A common misconception about statutory rape is that there is a single age at which an individual can legally consent to sexual activity. In fact, only 12 states have a single age of consent; in these states, this age ranges from 16 years to 18 years. In the remaining states, the age of consent depends on one or more of the following factors: age difference between the partners, victim’s age, and defendant’s age.

*Exhibit 1* illustrates how the age of consent interacts with these three elements. The examples of States A, B, C and D are general types of laws that are represented by more than one state.

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<sup>7</sup> House Res. 3734, Section 402 (Eligible States; State Plans), 104<sup>th</sup> Congress. 1996.

**Exhibit 1: Factors in Age of Consent**

State Types	Age of Consent	Minimum Age: Victim	Age Differential	Minimum Age: Defendant
A	18	--	--	--
B	16	--	4	--
C	16	13	4	--
D	16	16	--	18

*State A* has a single age of consent. In this state, a male or female under age 18 cannot consent to sex, regardless of the other party's age. Thus, sexual relations between two 17-year-olds would be illegal, as would relations between a 17-year-old and a 25-year-old. States B through D demonstrate the other criteria.

- *Age differential.* A number of state codes specify age ranges outside which parties cannot consent to sex. In *State B*, sex with an individual under 16 years of age is illegal if the other party is four or more years older. Thus, sexual relations between a 15-year-old and an 18-year-old would be legal, while a relationship between the same 15-year-old and a 21-year-old would be illegal.
- *Minimum age of victim.* Some state codes define the age below which an individual cannot legally engage in sexual activities, regardless of the other party's age. For example, in *State C*, the age of consent is 16, but under certain circumstances – that is, the defendant is no more than four years older and under age 19 – individuals who are at least 13 years of age can legally engage in sexual activities. It is illegal to engage in sexual activities with someone under 13 years of age under any circumstance.
- *Minimum age of defendant.* Some states define the age below which an individual cannot be prosecuted for having sex with a minor. In *State D*, sexual activity with someone below the age of consent is illegal only if the defendant is at least 18 years of age.

Thus, to understand a specific state's laws, one must look to see which of these elements is included.

## **2. Reporting Laws**

Reporting requirements, generally included in the family or civil code, detail who must report (i.e., mandated reporters) and where reports must be made (generally CPS, law enforcement, or both). In almost all states, the reporting requirements related to statutory rape are found in the section of the civil code that describes child abuse reporting. As such, the requirement to report statutory rape is generally included in states' definition of child abuse – which varies substantially by state. Statutory rape is not always a reportable offense.

A primary factor in determining whether statutory rape is child abuse is the relationship between the victim and the defendant. In one-third of state codes, statutory rape is considered child abuse – and therefore a reportable offense – only if it is perpetrated or allowed by a person

responsible for the child's care.<sup>8</sup> Take the example of *State A* above. The relationship in question involves a 15-year-old and a 19-year-old. This partnership would constitute a violation of the state's criminal code. However, suppose this state defines child abuse as any sexual act in violation of criminal law, but only if the act were perpetrated by the victim's parent or other person responsible for the child's care. In this state, statutory rape would not be a reportable offense under the child abuse code if the person who perpetrated the crime was not responsible for the child's care.

In the remaining two-thirds of the states, the statutes outline circumstances where statutory rape is a reportable offense regardless of the relationship between the victim and the defendant. Within these states, a wide continuum exists. In some states, circumstances in which an offense must be reported (e.g., a victim who is below a certain age) are limited. In these cases, mandated reporters must notify the proper authorities of suspected abuse, regardless of the defendant's relationship to the victim. At the other end of the spectrum are states in which the definition of child abuse includes all statutory rape offenses; mandated reporters are required to notify the proper authorities of statutory rape regardless of the relationship between the victim and defendant.

## **B. Scope of the Problem**

Despite state laws that criminalize certain sexual behaviors – and mandate reporting at least in some circumstances – little is known about the scope of statutory rape. Limited data exist that document how often such offenses are occurring. At the local level, entities that receive reports (CPS and law enforcement) generally combine statutory rape reports with other offenses (e.g., forcible rape, child sexual abuse). National-level data tend to contain even less detail, again further complicated by the conflicting definitions and terminology.<sup>9</sup>

Child Trends analyzed the 2002 National Survey of Family Growth (NSFG) to estimate the prevalence of statutory rape nationally.<sup>10</sup> The analysis is based on information obtained from a sample of males and females age 15 to 24 in 2002 and a similar sample of females from the 1995 NSFG (the 1995 NSFG sample excluded males). For the purpose of the analysis, Child Trends defined statutory rape as sexual activity among teenagers age 15 or younger with a sexual partner three or more years older. Using this definition, about 13 percent of first sexual experiences among females and 5 percent among males were classified as statutory rape.<sup>11</sup> The analysis also found that younger teenagers are more likely to experience statutory rape. Among females, 65 percent of those 13 or younger at first sexual encounter experienced statutory rape, as did 53 percent of those 14 years of age, and 41 percent of those 15 years of age (the corresponding proportions among males were 27 percent, 16 percent, and 12 percent, respectively).

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<sup>8</sup> The exact definition of this relationship varies by state, but it usually includes the child's parent, guardian, custodian, or caretaker. In many cases, is also includes the child's teacher, doctor, or coach.

<sup>9</sup> At the national level, the FBI's Uniform Crime Reporting Program maintains a database on forcible rape and other sexual offenses; however, statutory rape is not broken out as a separate category.

<sup>10</sup> Child Trends (2005). *A Demographic Portrait of Statutory Rape*. Sponsored by the Office of Population Affairs, U.S. Department of Health and Human Services. Available online at [www.childtrends.org](http://www.childtrends.org).

<sup>11</sup> By way of comparison, 35 percent of females and 46 percent of males had sex that was not classified as statutory rape by age 18, and 52 percent of females and 49 percent of males were not sexually experienced by age 18.

## C. Study Questions

DHHS began to address the knowledge gap by sponsoring research conferences to explore what is known about the incidence of statutory rape and responses to the problem. Presenters described several initiatives, including recently legislated changes in the offense and clarification of reporting requirements; increasing enforcement of current laws; and efforts to educate potential perpetrators and victims about the laws and associated penalties. Given this context, the research team sought to answer numerous questions through field work.

*Why did a state or community take on the statutory rape issue? What was the impetus for acting (e.g., specific event, change in community sentiment)? Was there an interested party (e.g., a legislator, an advocacy group, a concerned citizen) who spearheaded the issue? How was the response framed (e.g., to prevent teenage pregnancy, to protect teenagers, to encourage healthy behavior)?*

*What was the nature of the response? What entities were involved? Did the response involve changes to the law, enforcement of current laws, creation of new programs or services, education for youth? Why was the particular response selected? Why did interested parties think it would work? To what extent is it a multidisciplinary response?*

*How has the response worked? Has it been evaluated? Do key stakeholders (e.g., educators, health care providers, prosecutors, police, CPS) support the response? How have stakeholders changed behaviors or policies as a result of the response?*

*Can the response be replicated? What are the lessons for other states or communities interested in adopting a similar approach?*

## III. METHODOLOGY

This project involved two key components: a review of state laws and field research. The state law report included an overview of state statutory rape laws and reporting requirements as well as a summary of laws and reporting requirements for each state and the District of Columbia. The report was designed to provide information useful to state and federal policymakers, health care and social service providers, and DHHS grantees interested in how state statutes address statutory rape.<sup>12</sup> The field research involved visits to nine sites addressing the issue of statutory rape at either the state or the community level.

This report focuses on the field research findings. *Exhibit 2* shows the nine sites visited. The sites were identified through several channels: review of state laws and recent policy changes; conversations with experts in the field, including presenters at DHHS conferences; conversations with family planning and other providers; review of the existing literature; and conversations with the federal project officer and members of a federal working group assembled to address the issue and the government response.

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<sup>12</sup> The report is available online at <http://www.lewin.com/NewsEvents/Publications/>.

**Exhibit 2: Field Research Sites**

State	Area	Type of Response	Key Organization	Components of Response
California	Los Angeles, Santa Barbara, San Luis Obispo Counties	Education and Prevention	Multiple health and community service providers	-Local-level education and prevention programs aimed at teenagers with a focus on peer education
Hawaii	Statewide	Legislation	State Legislature	-Legislature's recent change in age-of-consent law -Multi-agency task force recommending policy changes
Nevada	Statewide	Education and Prevention	Nevada Public Health Foundation	Three education programs: -Awareness of state laws (for teenagers) -Enforcing statutory rape law (for health care and social service providers, law enforcement, educators, and others who work with teenagers) -Assisting the victim/witness (for providers)
New York	Onondaga County (Syracuse)	Enforcement	District Attorney's Office	-Strong enforcement of state laws -Collaborative relationship between District Attorney's Office, law enforcement, and other county agencies
Ohio	Statewide (focus on Cincinnati)	Education and Prevention Legislation	Tackling Teen Pregnancy through Prevention	-Use of broad-base coalition to initiate change in state's statutory rape laws -Development of documentary and training for teenagers on healthy relationships and statutory rape
Pennsylvania	Statewide	Education and Prevention	Pennsylvania Coalition Against Rape	-Media campaign targeting teenagers -Curriculum for middle school students
Texas	Statewide	Legislation	State senator	-Using appropriations bill riders to enforce reporting requirements
Virginia	Statewide	Education and Prevention	State Department of Health	-Local coordination on reporting among Title X, CPS, and law enforcement -Statewide public awareness campaign targeting men
Wisconsin	Dane County (Madison)	Education and Prevention Enforcement	District Attorney's Office	-Deferred prosecution and sexual responsibility class for certain offenders

Onsite, the research team met with key stakeholders. This group usually comprised a combination of health care providers (e.g., Title X family planning clinics), state- and local-level health department staff, CPS staff, law enforcement personnel, local and state politicians, and rape crisis center staff. We discussed perceptions of the initiative, including its effectiveness, challenges to developing and implementing it, replicability issues, as well as advice for other states and communities interested in developing an initiative. The site visit reports in the **Appendix** summarize these discussions.

## IV. FIELD RESEARCH FINDINGS

As the previous section indicates, statutory rape laws are complex and vary by state. The reasons that young people and adults engage in these unequal partnerships are also complicated and defy simple explanation. Researchers at DHHS conferences, law enforcement officials, and practitioners describe several factors that underlie involvement in these unequal partnerships. For older males, predatory behavior might drive the desire to seek a younger sexual partner. The need to have power and control over their partners motivates some adults. Still others are immature, despite having reached adulthood in the eyes of the law, and cannot attract women their own age. They seek partners with similar maturity levels. Multiple theories exist as to why young teenagers become involved with older partners. Some are attracted by the perceived benefits of adult partners—they have their own cars and apartments, they can take their dates to nice restaurants and buy material goods that the teenager cannot afford. For some, a relationship with an adult provides an escape from a bad home situation. Still others are driven by cultural factors in which dating much older men is acceptable, and these adult partners often provide economic support to the teenager's family.

The variety of potential causes of statutory rape has resulted in a number of different approaches to dealing with the issue. This section describes responses in nine states or local areas. The underlying goal of the response(s) in each site was to improve protection of young people from age-disparate sexual relationships. However, given the complexity of the issue, it is not surprising that the approach and context in which the response occurred varied substantially.

We group state and community responses into three categories: legislative changes, enforcement of laws, and prevention and education. For each broad area, we describe the responses and the stakeholder or stakeholders involved and assess the interventions' effectiveness.

### A. Recent Legislative Changes

State statutory rape laws are not static. The theoretical underpinnings of the laws, as well as the laws themselves, have changed considerably since their inception.<sup>13</sup> Originally intended to protect the chastity of young women, the laws evolved to focus on the prevention of sexual exploitation of minors. Our review of state laws found that they continue to change as legislators clarify the nature of the crime and courts interpret laws on the books. As noted previously, few states, for example, have a simple age of consent. Instead, most states combine an age of consent with an age differential, which in effect legalizes sexual relationships below the age of consent provided both parties are of a (state defined) similar age. This reflects a desire to focus prosecution resources on predatory, age-disparate relationships rather than on sex between peers.

Three of the nine field research sites (Hawaii, Ohio, and Texas) adopted a legislative approach to addressing statutory rape. Two states changed the definition of statutory rape, the associated

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<sup>13</sup> Oberman, M. (2000). Regulating consensual sex with minors: Defining a role for statutory rape. *Buffalo Law Review*, 48, 703–784.

punishment, or both. One state used the legislative process to tie funding of family planning clinics to compliance with the state reporting law. As described below, the reason for seeking a law change, the stakeholders involved, and the process for changing the law differed by site.

## **1. Summary of Law Changes**

Hawaii increased the age of consent and added an age differential. Before the change, the state had the lowest age of consent in the nation (14 years). The new law:

- Increased the age of consent to 16, and
- Included a five-year age differential for 14- and 15-year-olds.

The law included a sunset provision and required that the attorney general convene a task force to examine whether the law should become permanent. The task force included a wide variety of stakeholders (e.g., law enforcement, family planning providers, prosecutors), some of whom did not support the law change. Following the task force's recommendation, the legislature made the change permanent before the sunset provision expired.

Ohio removed sexual offenses with a minor from a general "corruption" category and renamed the offense "unlawful sexual conduct with a minor." The corruption-of-a-minor law applied only if the victim was under age 13. The new law addressed sexual activity when the victim is 13, 14, or 15 (the age of consent remained 16) and added penalties when the offender is 18 or older. The law also increased penalties when the offender is 10 or more years older than the victim or has been convicted of certain sexual offenses. Supporters of the bill hoped it would augment prosecutors' ability to pursue harsher sentences for predatory behavior.

Rather than changing the law, Texas added a rider to an appropriations bill that enforced reporting requirements by tying funding for certain health programs to reporting law compliance. The law requires health care providers and other mandated reporters to report anyone under age 17 who is sexually active. Reports are made to CPS's statewide intake unit or to local law enforcement. Although the responsibilities of providers did not change as a result of the legislation, the new law brought increased attention to state-funded health care providers and led to increased monitoring of grantee compliance with mandatory reporting laws by the state agency.<sup>14</sup>

## **2. Stakeholders Involved**

The stakeholders who initiated the responses, as well as their motivations, differed considerably by site. In each site, we spoke with individuals directly involved with the legislative change as well as with other stakeholders that were affected by the change or had an interest in the issue. Respondents' perceptions about the new laws' success were heavily influenced by the extent to which they had been involved in the process to change the law.

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<sup>14</sup> As part of their regular on-site reviews conducted every two to three years, state monitoring staff review the charts for all patients under age 14 who were pregnant or had a sexually transmitted disease. Monitors check to make sure that grantee staff screened the patient and made the necessary report. Monitors also review a sample of records for 14 to 17 year olds to ensure the clinic followed its own reporting protocol.

*a. A Coalition*

In Cincinnati, Ohio, a bipartisan coalition of service providers spearheaded the issue. The group—Tackling Teen Pregnancy through Prevention—initially formed to provide a more coherent community-level response to teenage pregnancy. The group also included diverse ideological viewpoints on a range of reproductive health issues, notably abortion, but was able to put differences aside and focus on areas of agreement. One of these issues was statutory rape. Over time, group members became increasingly concerned about the number of teenage mothers who had children with substantially older men. In particular, the group felt that the current statutory rape laws and their punishments provided insufficient deterrence of predatory behavior. In addition, group members saw a change in the law as an opportunity to increase community awareness around teenage pregnancy in general and predatory behavior in particular. With the help of a state senator who participated in the coalition, this group drafted and proposed legislation, testified on its behalf, and lobbied for its passage. This coalition also developed education and training materials for the community to increase awareness among young people about statutory rape and healthy relationships (see **Section IV.C**).

Perhaps because a broad coalition presented a unified front on this issue, little legislative opposition to the law change arose. Although introduced by a conservative anti-abortion legislator, the initial support for the change came from a group of health and human service providers that included a liberal Cincinnati City Council member and providers who work closely with teenagers, including Planned Parenthood. The primary barrier to passage was getting the bill on the legislative agenda.

*b. Advocacy Group*

In Hawaii, a family rights advocacy group—the Hawaii Family Forum (HFF)—spearheaded the effort to increase the age of consent. This effort emerged out of concern that the state’s current age of consent (14 years) was out of step with the rest of the nation and served to harm young people. The group built support among many community- and faith-based organizations, as well as the public, by emphasizing that Hawaii had the lowest age of consent in the country and, as a result, attracts sexual predators. One of the key supporters of the change was a group that works with former prostitutes. The group argued that statutory rape relationships groom young girls for future sexual exploitation.

The HFF director tried to build support for the bill among other constituencies—notably health care providers—by emphasizing the common mission of promoting child wellbeing. However, health care providers and other stakeholders—including rape crisis center staff, prosecutors, and law enforcement—harbored serious reservations about the law change. Some feared that the change would lead to the criminalization of sexual activity between teenagers. Another concern involved access to health services. Providers worried the new age of consent would result in teenagers under 16 foregoing health care. Additionally, the law would engender confusion by creating a gap between the age of consent for sexual activity (16 years) and the age at which teenagers could obtain reproductive health services without their parents’ consent (14 years). Another concern, raised by law enforcement agencies and prosecutors, was that any change to the current law would impede their ability to prosecute offenders. In particular, they worried that if the law had weaker penalties, it would be more difficult to secure plea bargains. Rape crisis center staff feared the law would divert resources from supports for victims of

forcible rape. Due to these concerns, the governor vetoed the bill. The legislature overrode the veto, but, in a concession to opponents, agreed to create a task force to study the effects of the law before making it permanent.

*c. Concerned Legislator*

In Texas, a legislator served as the prime instigator for change. According to his staff, the senator believed that family planning providers were failing to comply with reporting requirements and, thus, created a safe haven for predators. Instead of seeking to change the criminal or family codes to redefine statutory rape or reporting requirements,<sup>15</sup> the senator focused on a mechanism for ensuring compliance with the current laws. This mechanism took the form of a rider to the Department of State Health Services (DSHS) appropriation bill. First introduced in 2000 and reintroduced in every subsequent legislative session, the rider requires that certain contractors and providers receiving state funds (including Title X family planning providers and STD clinics) report statutory rape or risk losing funding. DSHS was charged with developing a monitoring protocol; the senator and his staff remained closely involved in this process. The bill's supporters note that the law imposes no new requirements but instead improves state agencies' ability to enforce the current law.

Health care providers generally reacted negatively to the rider. It brought into the open a long-standing issue between providers – including family planning clinics – and law enforcement: Who ultimately retains the discretion to determine whether an adolescent is in an abusive relationship? They worried that increased reporting undermined their professional judgment and would endanger the trusting relationships they try to develop with their patients. They also expressed concern that adolescents would avoid health care altogether for fear of being reported or putting their partner at risk of arrest.

**3. Assessment of Responses**

Each of the law changes described earlier occurred in 2000 or 2001.<sup>16</sup> Assessing the “success” of the approach is difficult because each stakeholder has a different concept of what constitutes a positive outcome. For example, is an increase in reports in and of itself a measure of success? Or is the more appropriate definition the number of reports that are investigated? Or cases prosecuted? A different stakeholder might view teenagers continued usage of health services as a measure of success, suggesting that enforcement of a reporting law has failed to exert a “chilling effect.”

Respondents formed opinions as to whether the law change was a success, although they generally did not base their perspectives on hard data. As noted previously, information specific to statutory rape – including number of reports, investigations, and prosecutions – is

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<sup>15</sup> Mandatory reporters are required to notify the proper authorities if they believe that a child has been a victim of “Indecency with a Child” (defined as sexual contact with a person less than 17 years of age). The reporting requirement includes cases in which the perpetrator is not a person responsible for the victim’s care. Texas Family Code Section 261.101

<sup>16</sup> In Texas, the rider was first adopted in 2000. It was added to subsequent appropriation bills.

generally unavailable. Instead, data are grouped into broader categories, such as “rape” or “child sexual abuse.”<sup>17</sup>

We found that respondents were most supportive of legislative change when relevant stakeholders were included in the decision-making process from the start. This involvement eased implementation of the new law as well as built support for the change.

In Ohio, a bipartisan group of stakeholders initially advocated for the change. Based on firsthand experience with the affected population, the providers identified the legislative process as a promising avenue for addressing the perceived problem. Despite strong ideological differences among many group members, the interested parties found common ground in their desire to increase protections for teenagers. The coalition has continued to work together after the bill was passed by the legislature and signed into law. They educated the public about the law change and teenage pregnancy-related issues and supported development of a curriculum for teenagers that describes the law and the dangers inherent in unequal partnerships.

The change in Hawaii’s age-of-consent law also involved input from multiple stakeholders. Although the group advocating for the law change attempted to involve stakeholders early in the process, opposing groups expressed a variety of concerns about the law’s effect on teenagers and the ability to prosecute cases and did not join a coalition. By participating in hearings, however, they were able to shape the bill that ultimately became law by ensuring it included an age differential and would not criminalize near-age sexual relationships. The formation of the task force ensured that the various groups involved in the legislative process continued the conversation. A number of former opponents supported making the law permanent. Although some still question whether the change was necessary, stakeholders have failed to identify negative outcomes attributable to the new law.

In Texas, the rider appears to have achieved the legislator’s goal of requiring health care providers to comply with state reporting requirements. The state health department developed a monitoring system that includes onsite reviews. According to health and social service providers and CPS staff, reports have increased dramatically. Although providers appear to be following the letter of the law, many stakeholders continue to have grave reservations about the rider and the reporting requirements. Key stakeholders, including health care providers, felt excluded from the decision-making process. The rider was perceived as a broadside to stakeholders’ professional integrity as well as requiring additional cumbersome reporting processes. From their perspective, they were handed a mandate without the opportunity to offer input or comment. CPS also is concerned about the volume of reports and the staff time dedicated to processing them. Health care providers, CPS, and law enforcement suggest that reports rarely lead to investigations and prosecutions.<sup>18</sup>

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<sup>17</sup> Even in Texas, where monitors conducted the equivalent of case file reviews, limited data were available. Monitoring reports only note those instances where a grantee did not take proper action in response to suspected abuse (and not the total number of reported cases).

<sup>18</sup> Respondents suggested that statutory rape, when it does not involve violence or other mitigating circumstances, is given relatively low priority by law enforcement and CPS. In addition, uncooperative victims make it a difficult case to prosecute. Such victims are often unwilling to offer all of the necessary information for providers to make a complete report or for law enforcement and CPS to locate the alleged offender and build a case.

## **B. Enforcement**

As noted previously, all states have laws that define statutory rape offenses and reporting requirements. In each of the sites visited, law enforcement plays a central role. In some states, reports are made directly to the police. In others, CPS either refers reports to local law enforcement or conducts a joint investigation with the police. Law enforcement in all of the sites indicated that statutory rape cases involve unique aspects that make them difficult to investigate and ultimately prosecute. When deciding whether to assign a case for further investigation, a key determinant is available evidence. For example, reports might omit information on where the offense took place, which is an important piece of information if a metropolitan area consists of multiple police jurisdictions or if a statewide unit initially accepts and then assigns reports. Forensic evidence might be difficult to obtain because statutory rape victims generally avoid hospitals where sexual assault response teams are trained to collect evidence of a crime. Often victims are uncooperative.

This section describes two sites that focused on changes to the way in which law enforcement handles statutory rape cases. In one site (Onondaga County, New York), the district attorney actively communicated priorities to law enforcement and youth service providers in the community. The district attorney in another site (Dane County, Wisconsin), worked with providers to develop an alternative to prosecution for some offenders.

### **1. Summary of Responses**

In Onondaga County, the district attorney's focus on statutory rape is grounded in the desire to protect children in the community from predators. Despite the inherent difficulties in pursuing statutory rape cases, the District Attorney's Office felt it was important to make clear through its actions that this behavior is unacceptable and violators will be held accountable. The district attorney worked closely with public agencies and youth service providers to create a system for identifying and reporting statutory rape. The approach is designed to be attentive to victims' needs while still emphasizing the prosecution of perpetrators.

The district attorney worked with the Department of Social Services (the welfare agency) and the Probation Department to establish a process by which reports are made directly to the district attorney. This process was designed to increase the number of reports because the agencies are likely to have contact with underage teenage mothers or girls being supervised by the Probation Department who are in disparate-age relationships. The District Attorney's Office worked closely with the agencies to develop a reporting form that met the needs of the district attorney and law enforcement. Reports from other providers and the general public are made to the police.

The Syracuse Police Department and Onondaga County Sheriff Department's Abused Persons Units (APU) investigate statutory rape reports. These investigators are specially trained to interview and work with sexual assault victims. The investigator, who has a good understanding from the district attorney as to the evidence prosecutors need to try a case, determines whether to make an arrest. Investigators also meet regularly with prosecutors to discuss pending cases and questions they have about how to proceed with various investigations.

The district attorney uses a vertical prosecution approach. A single prosecutor works the case from start to finish. The district attorney believes this staffing structure results in greater sensitivity to the victim's needs and a higher likelihood of victim cooperation. It also promotes cooperation with law enforcement.

To aid in a more systematic response to statutory rape cases, the District Attorney's Office developed guidelines that identify key factors of consideration in charging these cases, shown in **Box 1**. These guidelines have helped the agency communicate to its partners how it approaches these cases and the manner in which prosecutors exercise their discretion.

#### Box 1: Key Factors of Consideration in Statutory Rape Cases

Prosecutors use the following factors in assessing how to charge cases and which penalties to pursue:

- Length of the relationship
- Victim's age when the relationship began and difference in the partners' ages
- How the two parties met
- Nature and extent of the relationship (e.g., did the victim lie about her age? did the defendant misrepresent his age?)
- Whether the relationship was overtly predatory (e.g., does the defendant have a history of seeking younger partners?) and whether the defendant has a prior record
- Existence of pregnancy or STDs
- Victim's cooperation and the strength of the case if the victim is uncooperative
- Input from the victim and her parents
- Victim's particular vulnerabilities, such as diminished mental capacity, learning disability, or addiction
- Extent to which the relationship involved manipulation and opportunism by defendant

In Dane County, the District Attorney's Office developed a deferred prosecution program for young (under 21 years), first-time statutory rape offenders. The centerpiece of the program is the Sexual Responsibility (SR) class. The class modules address a variety of issues, including sexual assault victimization, reproductive physiology and contraception, legal issues, and substance abuse and risk-taking. The modules emphasize accountability and educate young men about how to identify and avoid unhealthy relationships. The classes and corresponding community service requirements help offenders understand the effects of their actions on their victims.

One prosecuting attorney is designated to work with statutory rape cases. She ultimately determines whether to charge the offender and, if a charge is filed, whether to refer the case to the Deferred Prosecution Unit (DPU). The DPU makes the final decision on eligibility.

The site's deferred prosecution approach for young, first-time statutory rape offenders was developed through a state grant the county received designed to support increased prosecution of these cases. The county determined that a community-oriented approach emphasizing victim services, better guidance for investigative agencies, and development of responses specific to an individual case would be more in line with community values. The county used the infrastructure of its existing DPU (for other types of offenses) as the basis for a specialized

program for qualified statutory rape offenders. A wide array of community organizations volunteered their staff time to teach different class modules.

## **2. Stakeholders Involved**

In both sites, the District Attorney's Office played a lead role in developing the intervention. In addition, both sites worked from the outset to involve key stakeholders and community partners in the decision-making process.

In Onondaga County, the District Attorney's Office used its participation in the county's Child Abuse Response Team (CART) as a way to seek support from key stakeholders. The CART serves as an opportunity for regular meetings between the various agencies in the county dealing with sexual assault (e.g., law enforcement, child welfare, rape crisis centers, the Child Advocacy Center). The District Attorney's Office also worked with the county's local law enforcement agencies to create two specialized APUs, recognizing the need to coordinate the child sexual abuse and sex crime efforts of the 18 law enforcement agencies in the county. The emphasis on specialized training for these types of cases has helped ameliorate many law enforcement concerns voiced in other sites (i.e., insensitivity to the victim, avoidance of such cases because of their difficulty).

In planning the grant activities that eventually led to the development of the SR class, the Dane County District Attorney's Office facilitated multiple conversations with teenagers, the professional community, and a specially appointed Community Advisory Group (comprising 25 members, including teenagers, teenage parents, statutory rape victims, professionals, parents, journalists, urban planners, and sex offender treatment providers). These conversations highlighted the community's recognition that a difference exists between predators (older men involved in exploitative relationships with much younger girls) and younger men (usually under 21 years old) who are immature and fail to appreciate that relationships with younger partners are unacceptable. The community recognized that it needed a more nuanced approach than the laws prescribed. The involvement of providers and the professional community in the early stages was a prime factor in their willingness to teach various class modules.

## **3. Assessment of Responses**

Both sites appear to have developed broad-based support for their efforts. As noted above, many key stakeholders were involved from the beginning and, as a result, were willing partners in the response.

In Onondaga County, the District Attorney's Office participation in the CART was instrumental in obtaining buy-in from government agencies and child welfare-related organizations. Its work in this area helped cement its reputation with victim advocates and demonstrated its willingness, and that of law enforcement, to ensure responsiveness to victim needs. Regular CART meetings serve as an opportunity for the District Attorney's Office to provide updates about specific cases as well as discuss more general strategies for enforcement efforts. In addition, the District Attorney's Office also succeeded in obtaining support from other county agencies. In particular, it was able to establish reporting protocols with the Department of Social Services and the Probation Department.

The District Attorney's office identified several areas on which to focus future efforts. For example, although higher-level staff at the welfare and parole agencies supported the district attorney's efforts to enforce statutory rape laws, reporting from individual case workers is uneven. In both departments, this shortcoming could be due partly to training issues. When the District Attorney's Office and the welfare agency first agreed on a reporting arrangement, TANF workers received training on how to make referrals. However, because no recent training has occurred, as staff leave, newer staff are sometimes less familiar with the reporting process. In addition, staff receive no regular reminders about reporting.

Additionally, although CART members and county agency staff currently report cases to the District Attorney's Office, other key entities, including schools and health care providers, have been slow to report. The District Attorney's Office noted that the lack of reports from schools is partly a function of confidentiality requirements. However, the District Attorney's Office also worries that some schools hesitate to make reports because of concerns about upholding the school's reputation. The District Attorney's Office rarely receives reports from other health care providers. To some extent, this circumstance is due to the state statutory rape reporting requirements. Health care providers are required to report only cases that involve a person responsible for the victim's care.

In Dane County, the District Attorney's Office has received strong support for the SR class from community providers. Numerous entities have volunteered their time to teach modules and have offered input into various phases of the program's development. Participating agencies agreed that a certain segment of statutory rape offenders can benefit from an alternative to the formal legal process. They see these young men as immature and ill-equipped to deal responsibly with sexual relationships. Instead of labeling them as sex offenders, this program offers them tools to make better decisions about their relationships and reduce the likelihood of repeat offenses while holding the offenders accountable for their actions.

The primary limitation of the efforts in Dane County has been the effort's scope. The program has served approximately 50 individuals, and it appears to have succeeded in reducing recidivism among class attendees. While there have been anecdotal reports of its value as a deterrent, there is little hard evidence to suggest that the initiative exerted a wider effect. Even so, the planning discussions and efforts to assess community attitudes about statutory rape and appropriate responses represent an important step in integrating stakeholders and members of the community into the discussion and decision-making process related to this issue.

A missing component in both sites is a lack of solid data tracking the effectiveness of the initiatives. In particular, neither site had the systems in place to track the number of reports made or the outcomes of the cases. This lack of data makes objectively assessing the interventions difficult.

### **C. Education and Prevention**

Five sites took an educational approach to addressing statutory rape. Education generally served two purposes. First, sites used curricula to describe state laws regarding statutory rape and reporting requirements. Second, sites used media campaigns and educational activities to prevent statutory rape either by helping young teenagers build self-esteem and avoid

dangerous relationships or by discouraging older people from engaging in sexual relations with minors.

### **1. Types of Responses**

Through education, sites generally sought to accomplish one or more of the following goals: (1) help providers and others who work with youth identify statutory rape and respond appropriately; (2) prevent statutory rape by instructing youth about the law and the dangers inherent in unequal partnerships; or (3) prevent statutory rape by focusing on potential offenders and emphasizing the current laws and their responsibility to avoid illegal relationships.

#### *a. Provider Education*

Two sites designed education and training materials for service providers, particularly family planning clinics and others in the health field. In Virginia, the Department of Health Division of Family Planning works with clinics to ensure that staff understand reporting requirements and are prepared to address statutory rape cases if they arise. The centerpiece of this effort is a training entitled “Working with Minors: Requirements and Implications in a Family Planning Setting.” Following the training, each clinic was required to meet with key community partners (e.g., law enforcement, CPS) to develop a protocol for responding to statutory rape. Each year, the clinic, CPS, and law enforcement must hold a meeting to discuss interaction between the agencies and reporting issues. Additionally, the Department of Health Center for Injury and Violence Prevention (CIVP) developed a curriculum for youth service providers. “Sexual Coercion and Sexual Exploitation of Minor Teens” describes the state laws, risk factors associated with these relationships, how to identify unequal relationships, and prevention.

The Nevada Department of Human Services Division of Welfare and Supportive Services (DWSS) uses the TANF block grant to fund the Statutory Rape Education Project. The Nevada Public Health Foundation (NPHF) developed two curricula and provides onsite education and training on demand to a variety of audiences that might encounter statutory rape, including school personnel, law enforcement, and health care providers. The “Enforcing Statutory Rape Law in Nevada” training describes the law, the reporting requirements, and the consequences for the offender. It also includes components on the difficulties related to enforcement and prevention strategies. The “Assisting the Statutory Sexual Seduction Victim/Witness in Nevada” training also describes the state’s laws and reporting requirements but pays specific attention to the importance of balancing enforcement with victim needs.

#### *b. Youth Education*

Four sites developed trainings and other supports designed to prevent statutory rape by educating youth about state laws and the risks associated with unequal partnerships. The sites used an array of approaches to convey to young people the dangers of age-disparate relationships, including curricula-based education (e.g., in schools), the media, and peer-to-peer education.

**Curricula-Based Education.** Three sites developed trainings for young teenagers (generally junior high school age) that focus on the state laws and the dangers inherent in age-disparate relationships. Education in two sites used teenagers' personal experiences with statutory rape.

Planned Parenthood of Southwest Ohio developed the curriculum "Looking for Love: Exploring Teen-Adult Relationships." Used by schools, youth groups, and other teenage organizations in Ohio and northern Kentucky, the curriculum is designed to help teenagers make informed decisions and examine the serious nature and consequences of having a relationship with a significantly older person. The centerpiece of the curriculum is a documentary featuring interviews with several teenage girls who had been in one or more "dating" relationships with older men. During the interviews, they describe why they entered the relationships, their regrets about the relationships, and some of the more subtly coercive behaviors their partners used to keep them in the relationships. Although the documentary does not emphasize the laws specifically, it does emphasize the inevitable power imbalance when one partner is substantially older than the other.

NPHF created a teen-specific curriculum called "Statutory Rape: Awareness for Teens." Intended to be delivered in schools, the curriculum describes the state laws and consequences of violating them. The curriculum uses taped interviews with three statutory rape victims. During these interviews the girls describe their relationships—how they met their partners, what they liked about the relationship, and the difficulties that began to emerge. They describe how difficult it was to extricate themselves from the relationships, the effect the relationships have on other facets of their lives (e.g., conflicts with parents, truancy), and some of the long-term consequences of the relationships (e.g., STDs, pregnancy).

The Pennsylvania Coalition Against Rape (PCAR) developed a curriculum, "Statutory Rape: Strategies for Empowering Middle School Students," that representatives from local rape crisis centers present in schools. It uses case studies and other interactive exercises to help students understand the concept of consent and the age of consent and recognize that older peers might be perpetrators. It also explains why age-disparate relationships are against the law and introduces students to options and resources. The curriculum complements a statewide media campaign.

**Media.** PCAR employs popular culture to raise awareness of statutory rape and its effects. To develop a media-driven social marketing campaign designed specifically for youth, PCAR formed focus groups with teenagers and their parents. The site developed a music CD by Pennsylvania artists. The 10 songs feature several messages about violence, prevention, and healing. The album was popular among middle school students, and the site subsequently produced two music videos that it distributed to schools. The site also developed a magazine targeting teenage girls and a Website for teenagers ([teenpcar.com](http://teenpcar.com)). Both the Website and the magazine address issues such as relationships, self-esteem and body image, drugs and alcohol, and sexual violence.

**Peer Educator Model.** In California, family planning providers, rape crisis centers, and other health care providers use peer education to help teenagers and young adults understand and avoid statutory rape. These organizations' efforts have focused on providing teenagers with the knowledge and resources to make good decisions. The organizations perceive many benefits to using peer educators: teenagers are more receptive to information provided by their peers; they

are able to reach a wider audience than through large group presentations; it is a proactive, rather than reactive, approach to the issue; and education might have a ripple effect (i.e., one student changes and affects his or her peer group).

In California, two types of models were developed. One focused on peer-to-peer education (Amigo a Amigo); the other is a peer group, facilitated by adults (Amigas Positivas). In both of these models, program staff recruit and train teenagers who are willing to serve as a resource for their peers. They receive training on issues such as reproductive health, sexual decision-making (e.g., coercion, consent, unequal partnerships), and sexual violence.

In Amigo a Amigo, trained teenagers informally engage friends and others in their social circle about these issues, both during school hours and after school in social settings. Ideally, other teenagers will see them as resources for information and advice; the peer educators also refer teenagers to health care providers. The “Unequal Partners” curriculum, developed by Planned Parenthood of New Jersey, is part of the peer educator training. Thus, the peer educators are prepared to discuss this issue with teenagers.

Some adult-facilitated programs also use peer educators. Such programs take a blended approach to educating youth, providing programs facilitated by adults that also incorporate peer educators to act as both a resource and a role model for their peers. Amigas Positivas, offered in junior high schools and high schools by Planned Parenthood Santa Barbara, Ventura, and San Luis Obispo Counties and the Santa Barbara Rape Crisis Center, aims to empower young women by providing information, resources, support, and skills to make healthy decisions about relationships. The weekly classes are facilitated by Planned Parenthood and rape crisis center staff and incorporate information about unequal partnerships. Although the law is covered, staff focus on the implications of these relationships for the teenagers.

### *c. Education Targeting Males*

Two sites created interventions to educate males about statutory rape laws and the consequences of breaking these laws—for the male and the younger teenager. One used a school-based peer group to focus on positive behavior. A second site developed a statewide media campaign that encourages men to talk to their peers about unhealthy relationships.

Although they do not address statutory rape directly, the Men of Strength (MOST) clubs in schools across California seek to educate teenage males about responsible behavior. The campaign’s goal is to redefine masculinity in healthy ways while empowering young men. Through media and the MOST clubs, the campaign challenges young men to refuse to let their external environment dictate what being a man means. The MOST clubs and the corresponding MyStrength campaign take a different approach than most programs dealing with men and sexual assault—most approach men as potential perpetrators. MyStrength challenges young men to make positive change as bystanders. At each site, the MOST club is open to all young men at the school. The weekly group is facilitated by an adult (usually a young man in his early 20s). The facilitator works through a 16-week curriculum.

The Virginia Department of Health (VDH) CIVP developed a media campaign specifically targeting potential offenders. The *Isn't She a Little Young?* campaign focuses on adults—potential perpetrators and their peers. It aims to change the culture by changing peer

acceptance of unequal partnerships. The campaign uses billboards as well as cocktail napkins, bar coasters, and signs in bathrooms in establishments where men congregate. By focusing on men, the message is “do not coerce or manipulate adolescents” rather than telling young teenagers “do not be a victim.” CIVP used focus groups with adults to inform the campaign. One of the findings was that a negative message (i.e., one that threatened prosecution) had the effect of causing men to tune out the information. Information on the campaign, including questions and answers, is available on CIVP’s Website.<sup>19</sup>

## **2. Stakeholders Involved**

The education efforts usually included key stakeholders in the community. Respondents in most sites noted the importance of involving these stakeholders and conducting focus groups in developing educational and preventative responses. During all of our visits, respondents noted the importance of integrating education and prevention into any response. Generally speaking, three entities spearheaded the issue.

**Rape Crisis or Violence Prevention Centers.** Rape crisis centers played a prominent role in most of the educational programs we visited. Attuned to the needs of victims and the long-term implications of statutory rape, these centers provide an invaluable perspective when designing programs around the issue of sexual violence.

PCAR conducted extensive focus groups to develop a message best suited for the target audience. Local rape crisis centers present the curriculum in schools and, in one county, adapted the curriculum to respond better to community needs. In California, a local rape crisis center assumed responsibility for delivering a curriculum in the schools and also coordinated numerous peer education programs. Many sites also worked with local rape crisis centers to identify schools and other venues for delivering curricula and presentations.

**Title X Grantees.** In three sites, the state grantee (or its local delegate) played a key role in developing a statutory rape initiative. The Title X grantee in Virginia, for example, worked with the federal Region III training center to develop a curriculum specific to Virginia laws and reporting requirements. The grantee also required each local Title X provider to develop a protocol with CPS and law enforcement representatives for responding to statutory rape cases. During regular monitoring visits, the grantee ensures that clinic staff have been trained and that the protocol is in place.

In Ohio, a Title X clinic spearheaded development of the statutory rape curriculum and corresponding documentary. The local clinic worked with an array of other community providers, seeking input and guidance about both the material and the training rollout. In California, the Title X grantee provides funding and technical assistance to several organizations running education and prevention programs.

**State-Level Health or Welfare Departments.** In Nevada, DSS funded development of three curricula and the corresponding trainings by NPHF. NPHF developed the trainings with input from local providers (i.e., the rape crisis center, the Sexual Assault Response Team, and Planned

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<sup>19</sup> <http://vahealth.org/civp/sexualviolence/varapelaws>

Parenthood). VDH funded and designed the public awareness campaign and training program for youth service providers. The agency then contracted with local rape crisis centers and other sexual health educators to deliver training on the state's statutory rape laws and related issues.

### **3. Assessment of Responses**

The education initiatives described above encountered little resistance because the curriculum and media developers generally worked with local focus groups or stakeholders to craft a message appropriate for the target audience. In some areas (e.g., central Pennsylvania) materials were adapted to make them more responsive to local mores and needs.

Although these initiatives were not evaluated rigorously, some of the curricula were evaluated, usually in the pilot stage. The evaluations generally relied on a pretest-post test methodology and focused on changes in attitudes and opinions about age-disparate relationships, knowledge of statutory rape laws, and intentions about dating and sexual relationships. The evaluations found improved knowledge in many areas.

Discussions with educators and youth service providers revealed some common themes. Targeting both males and females is important because both play roles in preventing statutory rape. Education should be provided before students become sexually active. Strong support existed for offering prevention messages in junior high school rather than waiting until students reach high school and might already be involved in statutory rape relationships. Finally, educators noted that youth can play a key role in educating their peers and that young people are often more responsive to messages from other teenagers than from adults.

## **V. DISCUSSION**

The field research indicated consensus exists about the dangers to young people of involvement in age-disparate relationships that amount to statutory rape. This finding was true regardless of the stakeholder's ideology or political affiliation. The visits revealed a range of initiatives at the state and local levels to respond to this concern. These responses varied dramatically, often as a result of different political climates, different state laws, interpretations of the laws, and key stakeholder views of the appropriate way to address this issue.

Despite the increased attention paid to the issue of statutory rape nationally, particularly in light of some high-profile cases, addressing it remains largely a state and local function. Statutory rape is defined and adjudicated at the state level. Thus, the fact that initiatives to address the issue have been "bottom up" rather than "top down" is not surprising. The responses described earlier are generally based on state and local contexts and reflect the actions of an array of stakeholders.

### **A. Summary of Findings**

This section summarizes the major findings from the field research. It then provides a framework for action steps.

## **1. Data Are Limited**

The discussion of statutory rape at the national, state, and local levels, and the responses, are occurring in the absence of data on the problem's scope. The desire to take action often is based on knowledge of a few incidents or anecdotal evidence.

Limited data are available that provide an accurate picture on incidence. Recently, some national data shed light on trends in the sexual behavior of teenagers and older partners. As noted previously, Child Trends analyzed NSFG data and found that the first sexual experience for 13 percent of females and 5 percent of males comprised cases in which the teenager was 15 years of age or younger and the partner was three or more years older.<sup>20</sup> However, the variation in state laws makes obtaining an accurate picture of the extent to which illegal sexual acts are occurring (e.g., the scenario described above might be legal in some states) especially difficult.

Equally problematic is the lack of information on the number of reports, the number of arrests, the number of cases prosecuted, and the outcome of prosecuted cases. In the sites visited, service providers generally keep no data on the number of statutory rape cases they report or specifics about the cases. Some providers decline to keep this information out of concern for patient confidentiality. In other sites, providers' information systems did not support tracking this information. In cases in which providers do track this information, the data collection mechanisms are not standardized across clinics.

Moreover, report recipients – CPS and law enforcement – rarely can disaggregate statutory rape reports from other reports (child sexual abuse and forcible rape, respectively). Obtaining data specific to statutory rape cases from prosecutors and district attorneys' offices is equally difficult. Data are either unspecific to statutory rape, or cases that began as forcible rape prosecutions were plea-bargained as statutory rape (generally a lesser charge). The only reliable means of obtaining a complete picture of the number and nature of statutory rape cases and the outcomes of prosecutions would be a case file review.

## **2. Laws Vary by State, as Does Level of Consensus**

Statutory rape criminal and reporting laws vary substantially by state. In some sites we visited, the laws were changed recently to reflect new thoughts and opinions on this issue. However, in many states, the state laws appeared to have been on the books for years and thus did not necessarily reflect current community standards.

To some degree, the response in each site was influenced by state laws. In sites with heavy emphasis on enforcement, the laws dictate the actions of law enforcement and prosecutors. Among sites in which the response was more focused on education and prevention, the laws still played a central role in the intervention. Educational materials for teenagers referenced and explained the laws, and educational programs for health care and youth service providers emphasized their legal responsibilities. Even when the intervention was grounded in a broader

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<sup>20</sup> Child Trends (2005). *A Demographic Portrait of Statutory Rape*. Sponsored by the Office of Population Affairs, U.S. Department of Health and Human Services. Available online at [www.childtrends.org](http://www.childtrends.org).

attempt to help young people make better decisions, the legality of different actions remained an important part of the discussion.

Conversations with stakeholders revealed two general questions about statutory rape criminal and reporting laws. First, what should be illegal? Second, what should be reported? Varying degrees of consensus existed on these questions.

*What sexual activity should be illegal?* Consensus existed that sexual activity at a young age (e.g., under 14) is harmful. Because few supported criminalizing teenager-teenager sex (so-called Romeo and Juliet scenarios), stakeholders also generally agreed that age differentials in criminal codes are good.

Although all interviewees expressed concern about predatory behavior and the risks to young people involved in abusive relationships, disagreement emerged when stakeholders discussed the specifics of the laws. In particular, debates occurred about the age of consent and size of age differentials. These debates often focused on different parties' underlying opinions about whether teenagers' being sexually active is appropriate and if so, when. The conversation generally focused on the appropriate age of consent and the size of the age differential, while the sub-context was the larger issue of teenage sexual activity – that is, when is it appropriate, if ever, for teenagers to be sexually active. A number of stakeholders voiced suspicion that enforcement of statutory rape laws aimed to promote abstinence from sexual activity.

*To what extent should statutory rape be reportable?* Reporting laws are generally contained in state family codes. As a result, they can cause confusion. All providers were clear on their reporting responsibilities vis a vis child physical and sexual abuse perpetrated by a family member or person responsible for the child's care. However, in many states, although the criminal code might define statutory rape as child sexual abuse, the family code does not. In other states, the two codes are more aligned (i.e., the reporting requirements reference specific offenses in the criminal code). This circumstance led to another set of concerns for reporters – whether wholesale reporting will ultimately serve the best interests of young people or the community at large. Some expressed fear that reporting all cases in which the patient or client is under the age of consent could further overwhelm CPS and possibly divert resources from situations in which children are at greater risk for further harm.

Moreover, some stakeholders expressed concerns about the chilling effect of enforcement on adolescents' use of medical services. Many health care providers in particular argued that their proximate responsibility is to maintain a confidential relationship with the patient. Mandated reporting would violate the integrity of that relationship and reduce the likelihood that the victim would continue seeking the necessary services. They asserted that, based on their training and professional experience, they are well equipped to decide how to proceed case by case (i.e., whether to make a report). Additionally, they suggested that age, alone, was an insufficient indicator of a healthy or unhealthy relationship.

Other respondents argued that mandatory reporting of all suspected cases was necessary, both to protect the victim from harm and to send a message to the perpetrators that they will be prosecuted. More often, prosecutors and law enforcement officers made this argument. They noted that although health care providers can assess harm to the patient, they have no information about the perpetrator. Law enforcement personnel have access to data to determine

whether the perpetrator is a multiple offender and likely to cause harm to others. Moreover, proponents of mandatory reporting note that they are supporting enforcement of the laws on the books. Individuals who believe the laws are wrong can make their case to the legislature and advocate for a statute change.

### **3. Complexity of Issue Necessitates Broad Stakeholder Involvement**

No single agency or department within states has ownership of the statutory rape issue. Instead, an array of agencies and organizations has varying degrees of involvement, complicating any response to the issue:

- Legislators craft criminal and family codes that define statutory rape and reporting requirements.
- Entities in the community – including health care providers, schools, and other youth-oriented organizations – assume responsibility for making reports in states in which statutory rape is a reportable offense.
- State agencies, including health departments, develop guidance for providers on this issue.
- Law enforcement receives reports and investigates them.
- District attorneys and prosecutors charge and try cases.
- CPS often is responsible for receiving statutory rape reports. Generally CPS forwards cases that do not involve family members or caretakers to law enforcement for investigation.
- Advocacy groups often are involved in the policy debate.

The responses to statutory rape in the nine sites visited were initiated by a variety of stakeholders, and the nature of the response generally reflected the views of these stakeholders. Based on our conversations, we found a strong relationship between the degree of stakeholder involvement and support for the initiative. Broad support was generally found in sites where stakeholders were involved earlier in the process and given the opportunity to provide input on the program design and policy changes.

In one site, a bipartisan coalition of community stakeholders pursued a law change that aimed to better protect minors from predators. The group came to consensus about the importance of passing statutory rape laws with harsher penalties as a means of deterrence. Group members worked together to lobby for the bill and testified on its behalf. The broad-based coalition helped secure the bill's passage by portraying to legislators, the governor, and the general public that this issue was not a Democratic or Republican one but an issue that affects child wellbeing.

On the other side of the spectrum, a legislator included a provision in an appropriations bill that strengthened enforcement of reporting laws by tying health care provider funding to compliance. Although the legislature voted to accept the appropriations bill with the rider intact, the stakeholders most involved in identifying and reporting statutory rape cases were

excluded in the debate. Other sites fell somewhere along this continuum, involving stakeholders to varying degrees at different points in the policymaking and implementation processes.

This early inclusion of key stakeholders was especially pronounced in the site with deferred prosecution. After receiving a state grant to improve statutory rape enforcement, the county District Attorney's Office convened a series of meetings with professionals, teenagers, and other interested parties. The District Attorney's Office used the findings to craft a response that reflected community standards and expectations. During our visit, multiple respondents indicated that their inclusion by the District Attorney's Office throughout the process was a key factor in securing their support for the deferred prosecution program for statutory rape offenders (and their willingness to volunteer their time to teach class modules).

#### **4. Multifaceted Response Is Needed**

Few options exist for addressing statutory rape outside of the legal system. Site visits revealed formal education and prevention efforts – typically conducted by a state agency (e.g., health or welfare department) or a nonprofit agency (e.g., family planning clinic, rape crisis center). Although extremely important, education and prevention efforts are not designed to respond once an offense has taken place. Discussions with stakeholders indicated that statutory rape victims, as well as offenders, often need an array of services to address the underlying risk factors as well as the effect of the harmful relationship.

##### *a. Limitations of Legal Response*

Based on our visits, we identified two main problems with the lack of options to a legal response. First, some cases go unreported under the current system, especially in states that have no reporting requirements for abuse involving non-family members. Second, a legal response is designed to punish the offender. Even if prosecutors pursue statutory rape cases, few services are usually available to the victim and only a punitive response to the perpetrator. Each issue is described below.

A primary shortcoming of a legal response is that some cases never will be reported to the authorities. Providers are unlikely to make reports under two situations:

- *The offense is not a reportable one.* In many states statutory rape is not a reportable offense. As noted earlier, in about one-third of states, statutory rape is considered child abuse – thus reportable – only when it is perpetrated or allowed by a person responsible for the child's care. Health care and social service providers in these states noted that doctor-patient confidentiality laws preclude them from making a report. Their only option for initiating the legal process is to encourage a patient to make the report herself, an option these providers would actively encourage in some sites. More often, the providers emphasized the importance of the victim's extricating herself from the relationship. Most providers indicated that their primary focus in these situations is helping the victim understand the dangers of age-disparate relationships and the potential for coercion.
- *Health and social service providers exercise discretion.* In states where statutory rape is a reportable offense, regardless of the relationship between the victim and perpetrator, many

providers expressed concern about mandatory reporting laws. A common concern was that reporting suspected statutory rape would jeopardize their ability to provide services to clients because it would affect the level of trust (e.g., patients would withhold information about some situations that affect their health) or would have a chilling effect (teenagers would forego services). Some also stated that the legal system was particularly ill suited to addressing near-age relationships where no indication of coercion exists.

In many sites, health care providers take steps to ensure patient confidentiality and refrain from asking questions that, if the patient answered, might trigger a report. In some cases, health clinics indicated that they do not ask patients for their partner's age. Because the partner's age often is a key factor in determining whether sexual activity constitutes statutory rape (generally in states with age differentials), without this information providers are less likely to have a reasonable suspicion that necessitates a report. Providers explained their reluctance to ask about partner age because they do not see it as their responsibility to enforce statutory rape laws. The hypothetical example in *Box 2* highlights some of the issues facing providers in these situations.

#### **Box 2: Provider Concerns about Mandatory Reporting**

The following hypothetical example is useful in understanding providers' dilemma.

A family planning nurse has a 15-year-old female patient who comes in to obtain birth control. During the initial interview, the girl starts talking about her boyfriend, mentioning that he is a little bit older. In addition, the girl suggests that she is inexperienced and unsure if she is ready to have sex. At this point, the nurse recognizes that the girl is about to make an important decision and needs advice. While trying to build trust with the patient to ensure that she feels safe coming to the clinic for help, the nurse worries that, if she makes a report to police about this case, the girl will become more scared and less likely to come to the clinic. This experience might even increase her vulnerability and willingness to acquiesce to the demands of her older partner.

Our visits suggested that no system is in place for providers to formally respond to these types of cases without initiating the legal process. Yet, if the nurse decides not to notify the police, out of the perceived best interests of the patient given the specific circumstances, he or she might be breaking a reporting law and be subject to prosecution.

Among health care and social service providers that refrain from asking the partner's age, some did acknowledge that the age of the patient's partner can prove useful information in helping patients improve sexual decision-making. In these cases, many noted that, even when they do not ask the partner's age, they address the dangers of age-disparate relationships and unequal power dynamics in broader terms.

A second issue is the lack of an alternate response to statutory rape. In the states visited, reports of statutory rape that do not involve the victim's parent, guardian, or other person responsible for the child's care ultimately go to the appropriate local law enforcement agency. Some reports are made directly to law enforcement. Others are made to CPS and, once determined they involve no caretakers, are forwarded to law enforcement. At this point, law enforcement and prosecutors have discretion whether to pursue the case.

If they pursue the case, the focus is on the alleged offender – gathering evidence of a crime, charging the offender with a crime, and determining the punishment. Services for victims vary by site. In several sites, law enforcement and prosecutors have established strong relationships with health care providers, child advocacy centers, rape crisis centers, and other organizations

specializing in services to sexual assault victims. These efforts reflect an increased awareness of the need to be attentive to victims' needs and the value of a multidisciplinary approach to these cases. Non-punitive services for the offender are rare. The exception is deferred prosecution.

Often, however, law enforcement officers and prosecutors decline to pursue a case for a variety of reasons (e.g., false reports, determining the behavior was legal, an uncooperative victim, or insufficient evidence to prosecute). In these cases, both the victim and alleged offender usually fall through the cracks, so to speak. In some instances, law enforcement or prosecutors might still refer the victim to appropriate services (e.g., rape crisis center, mental health provider), but we encountered no state or local agency with set policies for dealing with these situations.

We encountered no sites in which a formalized mechanism exists for assisting victims in situations where the offense was not reportable. Some providers made referrals to mental health providers or rape crisis centers, but these procedures were inconsistent. However, they noted that their only choice is the legal system, even though it is poorly equipped to provide services to statutory rape victims. In addition to providing limited services for victims, the legal system can cause stress related to the investigation (and possible trial).

#### *b. Other Risk Factors Often Accompanying Statutory Rape*

Recent research has explored the relationship between adolescent sexual behavior and other risk factors. Kirby (2001) identifies numerous antecedents to adolescent sexual behavior, use of contraception, pregnancy, and childbearing, including tobacco, alcohol, or drug use; problem behaviors or delinquency; history of prior sexual coercion or abuse; poor school performance; and having a partner three or more years older.<sup>21</sup>

These findings reinforce the observations of numerous respondents during our site visits that statutory rape is rarely an isolated incident in the child's life, and it is usually indicative of a larger set of problems. Health care providers suggested that, although a concern in and of itself, teenagers often see these types of relationships as solutions to another problem in their lives. A common example was a young girl being abused by another member of her household. In such a case, the young girl might see a relationship with an older man, who is not overtly coercive or abusive, as a refuge from an unsafe home. Engaging in this seemingly voluntary behavior becomes a more attractive option than an abusive home life. Providers offered numerous other examples of situations in which an implicitly coercive relationship with an older partner offered the promise of stability in a teenager's life. In describing this scenario, they emphasized that the circumstances of the youth's life do not excuse them from reporting statutory rape, nor do they lessen the dangers to the youth associated with such relationships. Instead, they note that it provides context for understanding why a young person would opt to get involved in such a relationship.

Given the apparent relationship between statutory rape and other risk factors, many providers see the identification of statutory rape as an opportunity to address other issues facing the teenager. Although reporting the crime to law enforcement or CPS might be one aspect of the response, many providers noted that it is inadequate. Health care providers in a number of sites

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<sup>21</sup> Kirby, D. (2001). *Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy*. Washington, DC: National Campaign to Prevent Teen Pregnancy.

use assessments that try to understand teenagers' sexual behavior in the context of their overall physical and mental wellbeing. Providers noted that, typically, the assessment reveals patients in relationships with older partners also face other serious issues. A common tool, the HEADSS (Home, Education and Employment, Activities, Drugs, Sexuality, Suicide/Depression) psychosocial assessment,<sup>22</sup> attempts to obtain a complete picture of a young person's life. Over the course of the assessment, the providers build rapport with the patient as they ask increasingly personal questions. The responses indicate the need for other services and referrals.

In some cases, respondents pointed to the link between statutory rape and other risk factors as an added reason to encourage increased reporting. For example, one police department uses teams of social workers and officers to investigate all reports of statutory rape, even when the two parties are the same age (e.g., two 16-year-olds). While only a small percentage of these cases are prosecuted, the initial interview is an opportunity to screen for other potential issues (e.g., teenage pregnancy, relationship violence, substance abuse, issues at school).

### *c. Differentiating among Offenders*

One of the most difficult aspects in developing a coherent response to statutory rape is understanding the varying severity of cases included in this offense. As opposed to treating statutory rape as a binary offense (i.e., sexual behavior is either legal or illegal), most respondents viewed different types of sexual behavior on a continuum. State criminal laws also define a range of offenses. Although any sexual activity involving a significant age disparity is cause for concern, the size of this disparity played into the perceived severity of the offense.

A common theme throughout the visits was the inclination of respondents to differentiate between types of offenders. In the broadest terms, offenders were thought to fall into one of three categories: (1) significantly older partners who are overtly predatory, (2) partners who are somewhat older (e.g., early 20s) but are typically not seen as predators, or (3) teenagers who are many years older but still in violation of the law (e.g., a high school senior and freshman). Offenders in the third category often were characterized as having poor decision-making skills or being immature – young men who were unable to find partners their own age. In these cases, the nature of the relationship may be coercive, but to a far less degree than in relationships where the offender is substantially older than the victim.

As noted previously, the legal response to statutory rape focuses on punishment, which is an appropriate response to the first category of offenders but likely will fail to address the underlying issues that drive the second category of offenders to seek younger partners, as explained in **Box 3**.

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<sup>22</sup> HEADSS was initially presented in Goldenring, J.M., & Cohen, E. (July 1988). Getting into adolescents' heads. *Contemporary Pediatrics*, 5(7), 75-90.

**Box 3: All Statutory Rape Cases Not the Same**

Consider a hypothetical state where the age of consent is 16 and there is a 4-year age differential. In this state, for a 15-year-old to be involved in a sexual relationship with a 19-year-old would be illegal. Although most would argue that this relationship raises concerns, few would characterize it as overtly predatory behavior in the same way as if the 15-year-old were involved with a 39-year-old. The differences in these two cases are straightforward, but the distinction is sometimes unclear. Would increased disagreement occur if the perpetrator in the first case were 22 instead of 19? At what point is the relationship perceived as overtly predatory?

Respondents also noted that the presence of mitigating factors in a given case contributes to perceptions about the case. Cases in which offenders encourage or expose the victim to additional risky behavior (e.g., substance use, violence, transmission of STDs) attract increased attention. For example, a case involving near-age partners would represent a greater cause for concern if evidence of violence in the relationship existed. In one site, a prosecutor noted that a key factor in deciding whether to pursue a case is the extent to which the victim's involvement with the offender substantially interfered with her normal social development (e.g., the offender was encouraging the victim to cut classes).

In two sites, policies reflected these differentiations in perceived severity of offenses. In one site, the District Attorney's Office has a policy in which, barring mitigating circumstances, first-time offenders are generally offered the opportunity to plead to a misdemeanor with no incarceration if the age difference between the two parties is not "unreasonable and unjustifiable." Another site developed an SR class within its deferred prosecution program for young, first-time offenders as an alternative to prosecution.

**B. Framework for Action**

The ultimate question vis a vis statutory rape criminal laws and reporting requirements is whether they are meeting the needs of children and society. Despite the limitations of the responses described throughout this report, our visits suggested a number of approaches that could help improve the current response. Additionally, these approaches could prove instructive in developing new responses more specifically tailored to this issue. Given the variation in community standards and state laws, supporting innovation at the state and local levels is important. In this subsection, we present a framework for action, highlighting key steps that can be taken toward such improvements.

Statutory rape is an issue that needs the support of a variety of players – including law enforcement, providers of services to teenagers, district attorneys' offices – because all of these organizations play a role potentially in preventing or stopping a situation involving statutory rape. Site visits indicated a variety of approaches to obtaining buy-in from key stakeholders. Approaches that incorporated a range of groups and individuals during the program definition stage generally developed a more coherent response that included multiple stakeholders' missions. Consensus-building helped craft a more unified approach that reduced friction during implementation. Federal and state agencies need to create opportunities to develop responses grounded in dialogue that involves as many relevant stakeholders as possible. This effort could include convening stakeholder meetings, funding demonstration grants, and

providing guidance on the development of memoranda of understanding and referral protocols.

The framework for action includes three elements. After developing an understanding of the extent of the problem, sites could explore alternative systems for responding to statutory rape. Finally, sites could identify other areas for improving the current system for identifying and responding to statutory rape.

### **1. Understand the Problem**

The first step in crafting an appropriate response to the issue of statutory rape is to understand the nature of the problem. Given the substantial variation in state laws, and the unique characteristics of different communities, crafting the response at the state, or ideally, local level is important.

An accurate picture of statutory rape in a given state or community involved understanding three dynamics:

- *Incidence.* What is the problem's scope? Is it growing or decreasing? State and local areas must first obtain a sense of teenagers' sexual behavior, specifically cases that involve activity illegal under the state's statutory rape laws. If possible, this trend data will also include information on age differences within these relationships. Data on incidence are especially hard to track. Child Trends' work with the NSFG represents the best and most recent effort in this area. Additional NSFG analysis, using different definitions of statutory rape, could help identify other trends in incidence (e.g., the data could be used to identify the number of cases involving especially large age differences). However, these data provide a picture at only the national level.
- *Reports.* In addition to tracking incidence, communities should have the infrastructure in place to track the reports of statutory rape. In almost all communities, the first step in any formal response to this issue is a report (generally to CPS or law enforcement). Although most child welfare and law enforcement agencies track the reports they receive, few have the systems in place to parse out the statutory rape reports. In the case of CPS, these reports most commonly are combined with other child abuse and neglect cases. Law enforcement is more likely to have trouble disentangling statutory rape reports from forcible rape cases. Tracking from where reports come also would be useful, including reports mandatory reporters make to CPS and law enforcement.
- *Response.* To craft an effective response to the issue of statutory rape, communities first must understand how these cases are currently being handled. Given the limited formalized options, this handling of cases generally means outcomes of reports that go through the legal process. Communities should pursue data that track the outcomes of all reports received. These data include the case profile (e.g., source of report, age of victim and perpetrator), charging decision by law enforcement or the prosecutor, case outcome (i.e., plea bargain or trial, guilty or innocent), and punishment. In addition, information on mitigating factors associated with the case would be helpful (e.g., perpetrator's prior record, whether the victim became pregnant, involvement of drugs or alcohol). Data that

paint a picture of the response to statutory rape would be valuable, as well, given that, currently, providers receive little or no information regarding the outcomes of their reports.

Steps can be taken to improve the availability of data at the local, state, and national levels. Federal agencies could support increased funding for questions that deal specifically with this issue on existing national level surveys. In addition, federal agencies could provide demonstration grants to states or local areas interested in collecting more detailed data on reports, arrests, and prosecutions.

Although the existing infrastructure might be useful in developing improved data on reports and responses, data on incidence might be harder to acquire. Surveys such as the NSFG can provide national-level estimates. Finding representative data on incidence at the local level is much harder. Federal or state governments might consider developing model survey instruments that interested communities could adapt and field at the local level (e.g., surveying all eighth graders in a given school district about sexual behavior). Given the cost of such endeavors, federal or state funding likely would be necessary.

## **2. Explore Alternative Systems for Responding to Statutory Rape**

Despite lacking a complete picture on the incidence of statutory rape – the extent to which the service system identifies and reports statutory rape incidents and the actions resulting from reports made to CPS and the police – the field research offered strong evidence that many cases go unreported. Furthermore, authorities fail to investigate many reported cases. These findings suggested that existing options for responding to statutory rape within the criminal justice system are limited.

Similarly, the findings suggest that, in many instances, the criminal justice system is not the ideal first response system for statutory rape reports. For the most severe cases – ones involving violence or overt coercion, especially young victims, substantial age differences, or both – the criminal justice approach is the appropriate venue. However, many statutory rape cases often, entirely appropriately, receive a lower priority than violent crimes and other high visibility offenses. From police and prosecutors' perspective, these cases are hard to pursue because the victims often are uncooperative and little other evidence of a crime exists.

Furthermore, even when criminal prosecution is the appropriate avenue, this process is sometimes insufficiently attentive to victims' needs, including services related directly to the offense (e.g., counseling) as well as an assessment and response to other potential concerns in the victim's life. If untrained to deal with such cases, police investigators might create additional emotional distress for the victims.

The site visits suggested that child welfare agencies in many states receive the majority of statutory rape reports. However, CPS typically investigates only cases that involve a family member (i.e., if the case falls under the definition of child abuse and neglect). Otherwise, they forward the reports to the appropriate law enforcement agency. Often, the initial report lacks sufficient details to warrant further investigation.

Mandatory reporters view the entire process with some level of concern. Health care providers are concerned about the welfare of their patients. They sometimes are unconvinced that

engaging the police in the affairs of young people is in those children's best interests. They also are concerned that young people will forego health services if they fear that the result will be a report that leads to police intervention and criminal action against their partner. In addition, the current process lacks transparency; many providers were unaware of the investigative process and expressed concern that they receive no feedback on the outcomes of their reports.

As a result, many young victims fail to receive the help they need. For some, that help might be counseling and support to end inappropriate relationships and address other challenges in their lives. For others, it might be freeing them from a controlling predator. At the same time, many perpetrators also go unidentified and untreated; many of these perpetrators are immature young adults who have made poor decisions—individuals who could benefit from education and counseling. However, others might be preying on multiple young people and deserve to be handled by the criminal justice system.

As documented in the report, some individual agencies and organizations have taken steps to address these shortcomings. However, the nature of this issue underscores the need for a more systematic approach recognizing the multidimensional nature of the problem. In particular, the field work suggests that an alternative approach for responding to statutory rape might be needed to address this issue more comprehensively. Such an approach would benefit from clearer delineation of different stakeholders' (e.g., law enforcement, CPS, mandatory reporters) responsibilities. It must address victim needs while also reducing reporters and enforcement agencies' hesitation to pursue these cases.

One possible approach identified is to lodge responsibility for first response to all statutory rape cases in the child welfare system because, at its core, the issue of statutory rape is one of child welfare. Placing the victim's welfare first would reorder the priorities for addressing this issue. The child welfare system is in many respects well positioned to take on this issue. It is often the initial recipient of statutory rape reports. CPS agencies have investigators trained to explore complaints of child abuse and neglect, including sexual abuse, and the agencies are well versed in conducting investigations that are attentive to both criminal violations and the social service needs of individual cases.

In this alternative approach, CPS might make the initial investigation to explore the facts of the case. This investigation might lead to a variety of responses appropriate to the situation, including referral to the police. In certain cases, CPS and the police might investigate cases together, as they do in child abuse cases where the child is at imminent risk of harm. Law enforcement agencies, CPS, and other stakeholders within states could collaborate to develop protocols for this referral process. These conversations could address issues such as the following:

- *Prioritization of cases.* District attorneys' offices and law enforcement identify circumstances under which CPS should pass cases to law enforcement for a criminal investigation as opposed to conducting a non-criminal investigation.
- *Contact person for referrals.* Agencies identify special liaisons responsible for making and taking statutory rape referrals.

- *Identification of victim services.* Agencies could work with stakeholders to develop standardized assessment tools to aid in appropriate referrals of victims (and their families) to service providers.
- *Follow-up with reporters.* Agencies could define set procedures for communicating with reporters about the status of reports.

States and local areas that may be interested in pursuing this approach, however, would have to work within the realities of the current child welfare system. The system faces many challenges in meeting its responsibilities. Staff carry large caseloads; additional responsibilities would only increase the burden and likely affect their ability to work cases adequately. Given this reality, state and local child welfare agencies would need additional resources to hire extra staff and establish a system for processing and investigating statutory rape reports. A system-wide change at this point would be neither practical nor even ideal.

One option would be local demonstrations of alternative systems where a variety of approaches, including the involvement of child welfare, could be tested and evaluated. These demonstrations could be tried in communities with varying state laws and reporting requirements, structured to try alternative approaches to investigate and respond to instances of statutory rape. This methodology would result in models that could be replicated in other communities and, if appropriate, lead to a large-scale restructuring of how we view and respond to statutory rape.

### **3. Identify Other Areas for System Improvement**

Developing a new systemic response to statutory rape will be a challenging task. Even if states are able to leverage existing CPS infrastructures, such an endeavor would be time consuming. Below, we present other steps that states and local areas can take while simultaneously pursuing larger-scale changes.

#### *a. Reassess the Appropriateness and Effectiveness of Current Laws*

Our visits suggested widespread dissatisfaction with statutory rape criminal and reporting laws in many sites. Although some sites have taken steps recently to address this issue, many remain at odds with the legal framework that plays such a great role in dictating their responses. Policymakers can work productively with stakeholders to initiate a dialogue about the appropriateness and efficacy of current criminal and reporting laws, especially considering the variation in state laws and the extent to which these laws frame responses to the issue. Efforts to reevaluate and clarify current legislation should address the following issues:

- *Do the current statutory rape laws reflect community standards on acceptable behavior?* Such an evaluation includes examining whether the age of consent and age differentials are appropriate. In addition, policymakers can explore whether the punishments enshrined in the laws accurately reflect how the state wants to respond to this issue. Obtaining broad-based community support for education and prevention programs or enforcement efforts is difficult if the laws and their supporting policies fail to reflect community standards.

- *Is the current framework, including reporting laws, appropriate for responding to victims' needs?* Reporting laws are only as strong as mandatory reporters' resolve to follow (or thwart) them. When reporting requirements align with community standards, stakeholder sentiments, and perceptions of victims' needs, they more likely will result in viable reports to CPS or law enforcement. When such laws are seen as out of step with standards or unhelpful to victims, the result can be incomplete reports or failure to comply with requirements. Furthermore, policymakers might want to ensure that reporting laws prescribe a multifaceted response that is attentive to the unique circumstances of statutory rape cases.
- *How are laws and reporting requirements conveyed to reporters and other stakeholders?* In particular, states should explore the extent to which state-level agencies interpret criminal and reporting laws in the same way and provide uniform guidance. We observed situations in which providers received conflicting guidance from different state agencies, and providers and agencies interpreted current laws differently. Clear legal guidance – what is illegal and under what circumstances is it reportable – is a key step in improving responses to statutory rape within the current framework. For example, attorney generals' offices could give state agencies and providers clear interpretations of the law to reduce the likelihood of confusion or misinterpretation of different entities' legal responsibilities.

When assessing current laws, as with other policy decisions, involving relevant stakeholders early in the process will increase the likelihood of an outcome that enjoys broad support. These stakeholders include health care and youth service providers and other mandatory reporters, enforcement entities (law enforcement, prosecutors, CPS), and victim advocates.

*b. Explore a Range of Responses*

States and local areas could explore alternatives to dealing with offenders – punitive responses to statutory rape that align with the continuum of offenses. For the most serious offenses (e.g., substantial age differences, overt coercion), this response will generally mean incarceration. However, state- and community-level conversations about how to punish lesser offenses might result in alternative punishments (e.g., deferred prosecution, community service). Developing punishments in concert with relevant stakeholders that map to community standards will increase support among providers and other mandatory reporters.

As demonstrated by the efforts in Dane County, state funding can support the development of options, such as deferred prosecution that effectively operate within the current legal framework. The key is working with stakeholders and community members to identify an approach that reflects local standards for how these cases should be addressed.

Communities also must develop a more coherent set of services for perpetrators. Respondents repeatedly emphasized that many of the younger offenders were not predators. Instead, they were immature men with bad decision-making skills who often failed to understand why their behavior was unacceptable and the potential harm they were causing their victims. Although the current legal system might be the best route for predators, many of these offenders might be better served by an approach more grounded in the social services, similar to the approaches available to certain parents through the child welfare system.

*c. Educate and Prevent*

Education and prevention serve an important role in drawing attention to the issue, emphasizing community standards, and empowering young people to make healthy choices. As opposed to responses aimed at enforcement or legislative change, we found scant opposition to any of the education and prevention efforts we observed during our visits. A consensus existed among all stakeholders about the importance of supporting increased efforts in this area.

We found that, although young people's understanding of the laws and the motivations behind them is important, education and prevention efforts targeting young people should focus more broadly on good decision-making skills and empowering youth. As with other issues (e.g., reproductive health, substance abuse), teenagers need to understand *why* certain behavior can be dangerous. In addition, our findings emphasize the importance of coordinating these programs with agencies responsible for enforcement.